

## **Governance and the limits of accountability: the WTO, the IMF and the World Bank** Ngairé Woods and Amrita Narlikar\*

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### **Introduction**

Over the past two decades the functions of international economic institutions have greatly expanded to include programs and policies which affect a wider range of people, groups, and organizations than before. The new intrusiveness of international economic institutions takes two forms. Over the 1990s, the IMF and the World Bank expanded the breadth and depth of conditionality they apply to borrowing members, including conditions on domestic governance and the institutional framework of economic policy-making. At the same time, in 1995 the establishment of the World Trade Organization created a new set of binding commitments on member states which extend (and are being further extended) into many areas of domestic legislation.

International economic institutions now address issues which were previously dealt with at the level of national government. Put another way, decisions and policies taken at the international level are increasingly affecting groups and people within states. Where previously these people could hold their national governments to account for policies, they must now look to international institutions where the decisions are being made. The question therefore arises: to whom are these institutions accountable and are they accountable to those whom they directly affect? This paper sets out to answer that question in respect of the IMF, the World Bank, and the WTO.

The first section analyses the new intrusiveness of the WTO, the IMF and the World Bank examining how they now affect groups and peoples within states, in effect creating new stakeholders. The second section discusses the concept of accountability, exploring the mechanisms of accountability which are most relevant and applicable to international institutions. The third section outlines how the IMF, World Bank and WTO are attempting to bolster their accountability through enhanced transparency and monitoring. The fourth section examines the ways in which the institutions are opening up to new 'stakeholders' and NGOs in particular and the new challenges of accountability this poses. The conclusion comments on the emerging balance between the functions, legitimacy and accountability of international economic organizations.

### **1. The new intrusiveness of international economic organizations**

The first step in our argument is that the IMF (or the Fund), the World Bank (the Bank), and the World Trade Organization (WTO) function in ways which intrude deeply into the national politics of member states and that as a result they face a wider range of stakeholders claiming a

right to hold the institutions to account. We will begin by outlining in what ways the Fund, the Bank and the WTO have become more intrusive.

In the wake of the financial crises of the 1990s, the powerful industrialized members of the IMF and the World Bank cast the institutions into the role of ensuring 'forceful, far-reaching structural reforms' in the economies of all members in order (among other things) to correct weaknesses in domestic financial systems and ensure growth and poverty alleviation (IMF, 1998). This new intrusiveness of the IFIs has been detailed with more specificity by Devesh Kapur who has calculated that the numbers of 'performance criteria' on which loans are conditional have increased: in a sample of 25 countries, there were between 6 and 10 measures in the 1980s as contrasted with around 26 measures in the 1990s (Kapur, 2001). Kapur also notes that the number of programme 'objectives' being included in loans and programmes has increased, with countries now being required to undertake actions such as to mobilize, redefine, strengthen or upgrade government processes in an ever wider range of areas.

The conditionality now applied by the IFIs is a far cry from their initial mandates. Both the IMF and World Bank were created immediately after the second world war at which time there was a powerful consensus against interventionism by international institutions. This consensus is vividly expressed in Article 2(7) of the Charter of the United Nations: 'Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...'. From the outset, the need to respect the sovereignty of member governments in theory limited the range of activities of the IMF and World Bank, (and the proposed International Trade Organization).

Subsequently of course, the exigencies of the Cold War distorted this prohibition on intervention. Calculations of political stability and geo-strategic containment undoubtedly shaped the lending decisions of the international financial institutions (Kapur, Lewis and Webb, 1997). An even greater change occurred in the early 1980s. With the onset of the debt crisis, both the IMF and the World Bank became more deeply involved in policy-based lending and conditionality. As they extended loans to indebted developing countries, so too they required countries to meet specific conditions. At first these conditions focussed on macro-economic indicators (in the case of the Fund) and specific sectoral reforms (in the case of the Bank). In the ensuing two decades, however, the conditionality of both institutions has broadened and deepened dramatically, delving into areas which were previously inconceivable such as good governance, the rule of law, judicial reform, corruption, and corporate governance. This new wide-ranging domain of advice and conditionality directly affects a wider range of policies, people, groups and organizations within countries.

In parallel with the expanding domain of the IFIs, the establishment of the WTO in January 1995 altered the scope and power of international regulation in trade (a task previously undertaken by the General Agreement on Trade and Tariffs or GATT). The WTO does not offer loans to members and thereby get to apply conditions as do the Fund and Bank. Nevertheless the WTO was created on an all-or-nothing basis whereby countries had to

commit to full membership in a 'Single Undertaking', binding themselves to a rule-based system, not just for the short-term periods of loans or negotiations as is the case with Fund or Bank conditionality. Withdrawal from any WTO commitment is extremely difficult, a temporary withdrawal requiring an appeal for a waiver to the organization (see Article IX: 3,4, & 5 of the Agreement establishing the WTO). Where a country violates a rule, the WTO can legitimize retaliation against that member unless all members consensually agree to veto a decision of the Disputes Settlement Body (DSB).

The WTO was created with a much stronger capacity to enforce rules than its predecessor the GATT. Alongside this change, the substance of the rules being enforced has also been transformed. The new more intrusive reach of the WTO has its origins partly in the successes of the GATT in reducing tariff barriers in trade. Robert Baldwin's oft-quoted analogy, of likening trade liberalization to draining a swamp, is useful here: as successful pumping efforts lead to the fall in the water level (i.e. tariffs), they also reveal rocks, stumps and other obstacles (i.e. non-tariff barriers or NTBs) that lie below the surface (Baldwin, 1970). To clear this drained land is not easy, often as it involves deep intrusions into the domestic regulatory regimes of member-states.

The mandate of the WTO goes further than that of the GATT in two ways. First, the WTO is a Single Undertaking, and it regulates non-tariff barriers as a part of this single undertaking whereas previously in the GATT non-tariff barriers had been negotiated in plurilateral codes. Second, the WTO widens the scope of NTBs in respect of which its members might regulate. For instance, the Multilateral Agreement on Trade in Goods has agreements on sanitary and phytosanitary measures, technical barriers to trade, trade-related investment measures (TRIMs), anti-dumping, subsidies and countervailing duties and so forth. The intrusiveness of the new agreement is illustrated below by the example of the Agreement on the Application of Sanitary and Phytosanitary Measures and the beef hormones case.

The aim of the Sanitary and Phytosanitary Measures (SPS) Agreement is 'to maintain the sovereign right of any government to provide the level of health protection it deems appropriate, but to ensure that these sovereign rights are not misused for protectionist purposes and do not result in unnecessary barriers to international trade.' The scope of this agreement was debated in the US case against the European Union (EU) for prohibiting the use of hormones in meat imports. The WTO disputes panel ruled that the EU ban was inconsistent with the SPS requirements that members: base their sanitary measures on international standards (Article 3.1 of the SPS agreement); have a scientific justification for using national norms (Article 3.3 SPS); use risk assessment procedures that take into account techniques developed by the relevant international organizations (Article 5.1 SPS); and avoid the use of arbitrary or unjustifiable distinctions which result in discrimination or a disguised restriction on international trade (Article 5.5 SPS). The Appellate Body upheld the panel's findings that the EU import prohibition was inconsistent with Articles 3.3 and 5.1 of the SPS agreement, but reversed the finding that the

import prohibition was inconsistent with Articles 3.1 and 5.5 (Hoekman and Kostecki). When the EU announced its inability to comply with the ruling, the plaintiffs (US and subsequently, Canada) were authorized retaliation in amounts that were determined by an arbitration panel. These WTO rulings generated much controversy. The case seemed to provide a graphic illustration of how the WTO prohibits governments from maintaining high standards of food safety, and intrudes into domestic regulatory regimes and even food habits of people.

WTO restrictions on what are seen as issues of domestic regulatory regimes, ethics and consumer choice are also evident in areas other than food safety. For instance, the WTO provides that no member can use trade policies to force another member to enforce stronger environmental standards on its territory or in specific production processes. The US ban on tuna imports from Mexico (on the grounds that Mexican fishing boats did not use dolphin-friendly nets as required under US regulations) was ruled as illegal by the GATT. The ruling, however, reinforced the perception that not only did the GATT/WTO give preference to trade over environment, but also that it forced consumers to accept products into their markets with little regard to the ethical concerns of the importing country.

Over-arching these cases, it is worth recalling the ways trade negotiations have broadened since 1986 when services were included within GATT jurisdiction, bringing domestic rules on foreign direct investment (for the provision of services through commercial presence) and the entry of foreign personnel (for the provision of services through movement of natural persons) directly into the ambit of multilateral trade rules. Subsequently yet further encroachments have been made in services and also in the areas of intellectual property, trade-related investment measures (TRIPs and TRIMs). By 2001 working parties in the WTO were exploring issues such as competition policy, government procurement, and the environment for possible inclusion.

The implications of the analysis above are that each of the international economic institutions is now involved in decision-making which directly affects local communities, interest-groups, national domestic political and economic arrangements, and also specific groups of countries. Many of these groups are today claiming that they should be treated as stakeholders, and that the international economic institutions should be more directly accountable to them.

## **2. Elements of accountability in international international economic institutions**

Does it follow that international economic organizations should now be accountable to all those who are now affected by their more intrusive policies and actions? The above section reveals why it is that new sets of stakeholders are emerging in respect of each of the IMF, the World Bank, and the WTO and claiming that the institutions should be accountable to them. In this section we will examine this claim, first by exploring how the concept of accountability can be applied to the international economic institutions.

The traditional argument about the accountability of the institutions has two elements: constitutionalism and representation. In the first place, the institutions are bound by their constitutions. The Fund and Bank were established by Articles of Agreement for each, and the WTO by the Final Act of the Uruguay Round (see the websites of each organization). These written documents define the limits within which the organizations function, setting out their basic structure and main objectives and functions. However, as argued above, whilst these documents implicitly and explicitly protect the sovereignty of member states from the actions of the institution, these restrictions have been overridden in recent years.

In addition to constitutional limits on their activities, each of the international economic institutions is formally accountable to its member states. Each member is represented on the Board of Governors of the IMF and the World Bank, and the Ministerial Council of the WTO. However, we need to examine the extent to which that representation acts as a mechanism of genuine accountability.

The operations of the IMF and World Bank are overseen by Executive Boards on which the largest member countries (USA, Germany, France, Japan, UK, Saudi Arabia, Russia, and China) are directly represented by their own Executive-Director. All other countries are grouped within constituencies who elect one Executive-Director to represent them collectively on the Executive Board. In theory, the Executive Boards oversee the senior management of each institution which in turn oversees the work of the staff. In terms of accountability, however, this mechanism of accountability rests on three presumptions: (1) that all members are adequately represented on the Board; (2) that the Board genuinely supervises and directs the work of the organization; and (3) that the management and staff of the organizations respond and are equally influenced by all the members represented on the Board. In respect of the IMF and the World Bank these presumptions have been examined elsewhere revealing significant weaknesses in each (Woods, 2001).

The WTO has a different structure to that of the IMF and World Bank. The top body of the WTO is the Ministerial Conference, which meets every two years. The everyday operations of the WTO are conducted by the General Council, which also meets as the Trade Policy Review Body and the Dispute Settlement Body. The General Council has about 12 official meetings a year, and allows representation to all its members on an equal basis. Below the General Council are the Councils for Trade in Goods, Services and TRIPs, plus committees that report directly to the General Council. Much of the work of the three councils is further divided into specific committees and working parties. All four levels – Ministerial, General Council, the Councils for Goods, Services and TRIPs, and Committees and Working Parties – are constituted by official representatives from members.

The WTO is essentially a forum within which member states undertake multilateral trade

negotiations. The staff and management of the agency play a lesser role than their counterparts in the Fund and Bank. In the Fund and Bank the staff of the organization work with directly with governments in preparing enforceable agreements (or conditionalities) which they then monitor and enforce, with the agreement (seldom withheld) of the Executive Board. For this reason, the IMF and World Bank are sometimes described as staff-driven organizations. By contrast, the WTO (whose entire budget is only a little more than the travel budget of the IMF: Scholte et al, 1999) is member-driven in the sense that governments make and sign multilateral and plurilateral trade agreements among themselves, leaving the WTO Secretariat to provide administrative and technical support.

The structure of the WTO is (at least in theory) more directly representative of member states than that of either the Fund and Bank, both because decision-making at all levels is member-driven and because all states enjoy an equal vote. However, in practice the formal equality of one-state, one-vote does not describe the way decisions are made. The WTO works by consensus not voting and the content of any consensus is normally thrashed out in informal meetings (often the so-called 'Green Room' process) which are dominated by the United States, the European Union, Japan and Canada ('the Quad'). The reality of trade negotiations is that states with large market-shares enjoy significant input and influence over decisions, indeed one might describe them as decision-makers, while states with smaller market-share are effectively decision-takers. That said, it is worth highlighting that representation, even if it were equal is not direct. Voters do not get to elect their country's representatives to the WTO (nor the IMF or World Bank). Instead, voters get to elect domestic politicians who form governments who appoint Ministers who represent and choose delegations (in the WTO sometimes including private sector actors) to represent a country. For this reason, international economic governance seems very far removed from representative or accountable government.

The gap between national and international governance is described by some as a 'democratic deficit'. Yet this deficit may not be as fatal to the accountability of international organizations as some suggest. Clearly not one of the three international economic institutions examined is representative in the way that an elected government might be. But is this important? To assess its relevance we need to examine the evidence of direct representative politics as a mechanism of accountability.

The evidence in respect of democratically-elected governments suggests that accountability is very difficult to achieve through voting and representation. It is often assumed that politicians and officials in democracies are held accountability in some fundamental way through elections. Indeed, elections are one of the few direct ways in which citizens have capacity to adjudicate and sanction politicians. However, this mechanism of accountability is rendered imperfect by the fact that citizens rarely use their votes to sanction officials for abuse, neglect, or incompetence (or indeed to reward the opposite). Rather voters often use elections to express party loyalty or enthusiasm for a future set of policies (Przeworski, Stokes & Manin 1999).

Furthermore, voters seldom have the requisite information or capacity to follow up information they do have. In the words of one scholar, the control of politicians by voters faces 'problems of information, monitoring, and commitment' (Maravall 1999). For these reasons, elections are not an adequate form of accountability within national political systems.

At the international level, representativeness based on elected governments as a mechanism of political accountability is yet more problematic. Even if every government in the world were democratically elected, a large problem of accountability would still remain for international organizations. Let us explain this. We have seen that in national politics a government rarely wins or loses an election on a particular issue. Yet rarer would be a government that won or lost an election (or office through some other means) due to a position taken by its representative within an international economic organization. Indeed, given that elections do not hold politicians to account on domestic issues, it would be rather ludicrous to assert that they might serve as a mechanism of accountability in the international sphere where voters have even less information, and less motivation to cast their votes on such issues. Clearly elections as a mechanism of domestic restraint on public officials cannot be stretched into an effective mechanism of accountability for international institutions: even if every government in the world were democratically elected. Yet this is precisely what the arguments about the traditional structure of governance and representation attempt to do.

The argument so far is pessimistic about the prospects for accountability within international economic organizations. However, there are other mechanisms of accountability which are relied upon in domestic politics in order to ensure that political actions are predictable, non-arbitrary, and procedurally fair, that decision-makers are answerable, and that rules and parameters on the exercise of power are enforced. This kind of accountability is sometimes referred to as 'horizontal accountability' (Schedler, Diamond and Plattner, 1999). In domestic politics courts, ombudsmen and other agencies assume some of these tasks. For example, judges may play a role in reviewing official decisions and overturning them or sanctioning the officials responsible. A clear prerequisite for this kind of accountability is information and some degree of transparency: public officials or agencies must provide information about their actions and decisions, as well as justifications to the public and to any relevant specialized agencies to whom they must account. The other elements of this kind of accountability include: the monitoring of compliance; and the enforcement of limits, rules, and norms as to the exercise of official power.

In respect of international economic organizations, it is worth considering to what extent horizontal accountability plays or might play a role. Let us examine each institution in turn.

### **3. Horizontal accountability in the international economic institutions**

In this section we examine the existing mechanisms of horizontal accountability, including transparency, evaluation and monitoring, compliance and enforcement in each of the IMF, the World Bank, and the WTO.

### *The IMF*

In recent years, as the Fund's functions have widened and in the context of a new attention to democracy and accountability, the institution has come under greater scrutiny. This has resulted in serious attention to issues of accountability within the organization. To quote a recent IMF document arguing for a new independent office of evaluation, the institution now needs:

`To provide accountability to the organization's shareholders and the public for the results of its activities in the absence of market criteria by which to measure its effectiveness'. (IMF, 2001)

In terms of transparency, over the past decade the IMF has undertaken a revolution in its own transparency. Where previously most of the institution's documentation was inaccessible to anyone outside the walls of the institution, the Fund now publishes most of its research and a substantial amount of documentation regarding its work with individual countries on its website. At the same time, the IMF is now pressing government members to permit greater disclosure and publication of policies and agreements made with the IMF (which are confidential if the government so wishes). The results of these changes include the publication of information such as: Public Information Notices (PINs) following about 80% of the IMF's Article IV consultations (surveillance), and publishing Letters of Intent (LOIs) and related country documents that underpin Fund-supported programs with respect to about 80 percent of requests for or reviews of Fund resources.

At the same time, the Fund has also recognized that for some stakeholders enhanced transparency will not be enough adequately to enhance the institution's accountability. Rather, greater direct participation and ownership by local actors and societies is required if these groups are to participate in holding their own governments and the IMF to account for policies and policy-support. The most explicit recognition of this is to be found in the Poverty Reduction Strategy Paper (PRSP) and debt relief process being undertaken jointly by the IMF and the World Bank. Going further than it has before in endorsing - indeed requiring - local participation, the IMF (and World Bank), at the behest of its largest contributors, is requiring governments wanting enhanced debt relief under the Heavily-Indebted Poor Countries (HIPC) initiative to produce a plan as to how they intend to reduce poverty. The plan (labelled the Poverty Reduction Strategy Paper or PRSP) must be `nationally owned' and produced in consultation with `civil society'. Under this programme a large number of countries have qualified for debt relief (see the IMF's updated list at [www.imf.org/external/np/prsp/](http://www.imf.org/external/np/prsp/)), although most commentators note that in many cases the ideal of ensuring local participation in planning poverty reduction has given way to the urgent need to disburse debt relief. Hence, a large

number of countries have adopted a blueprint PRSP rather than instigated the kinds of participatory processes envisaged.

The new disclosure and consultation measures highlight the sensitivity of the IMF to concerns about accountability to groups within countries with whom it is working. Significantly, the Fund no longer describes its interlocutors in member countries exclusively as 'national authorities'. Rather, it refers to 'authorities and civil society', and of the need for its programmes to enjoy 'ownership by the societies affected' (IMF, 2000). Along with this recognition has come a new concern that the IMF also be accountable within its own walls for the work and performance of its staff. Specifically, this has meant bolstering mechanisms of internal and external evaluation and disclosing more of the results.

Since 1996, the Fund's work has been evaluated in three ways: self-evaluation (by operational staff) at the behest of management; internal evaluation (by the Office of Internal Audit and Inspection, OIA); and external, independent evaluations by outside experts (such as the evaluations of ESAF, surveillance work, and research activity). Not all of these are published. The external evaluations have been, along with a couple of the self-evaluations, the work of the OIA is not. A problem with all of these evaluations, as the specially-formed Evaluation Group of Executive Directors admits, is the lack of follow-up and monitoring of changes and reform subsequent to any evaluation (IMF, 2001). The further publication of all evaluations might well ensure that more actors and agencies outside of the institution could and would apply pressure for change. At present pressures for change have come disproportionately from the United States government and non-governmental actors within United States.

For the IMF, the perception that the institution is too accountable to its largest shareholder, the United States, creates a problem for its legitimacy. This is also a problem for the World Bank. The United States enjoys influence through its representatives on the Boards of the IMF and World Bank, the location and staffing of the organizations, and because both institutions court the favour of the US Executive and Congress. The US has a disproportionate capacity (compared to all other members) to hold the organization to account, as illustrated in the last round of negotiations on increasing the Fund's resources. In those negotiations, the US Congress, with no consultation with other governments, succeeded in setting down unilateral terms for change and reform in the IMF, in return for which a quota increase was agreed (Locke, 2000). The capacity of one government to hold the IMF to account, greatly magnifies and highlights the gaps in the institution's accountability to all other stakeholders.

### *The World Bank*

Like the IMF, the World Bank has vastly expanded its transparency in recent years. Its disclosure policies and the documentation now available on the institution's website represent a transformation when compared to the practices of a decade ago. Also similarly to the IMF, the

World Bank is seen by many as disproportionately accountable to the United States. However, several mechanisms of accountability exist which provide opportunities for others to hold the Bank to account.

Evaluation within the Bank is undertaken by the Operations Evaluation Department (OED). Unlike the IMF's internal evaluation systems, the OED is an independent body within the Bank, reporting directly to the Executive Board. The OED rates the development impact and performance of all the Bank's completed lending operations, as well as the Bank's policies and processes. In 1993, in the context of a broad review of the Bank's Disclosure Policy, access was opened up to the OED's "Annual Review of Evaluation Results" and summaries of evaluation reports ("Précis") for selected projects. Since that time, much more of the OED's work has become publicly available. However, there are still many OED documents which are not publicly accessible.

The most powerful and unprecedented step towards greater horizontal accountability taken by any of the international economic institutions was taken by the World Bank in 1993 when an Inspection Panel was created by the Executive Board. The Panel opens up the possibility for complaints to be made by any group able to show that: (1) they live in the project area (or represent people who do) and are likely to be affected adversely by project activities; (2) they believe that the actual or likely harm they have suffered results from failure by the Bank to follow its policies and procedures; (3) their concerns have been discussed with Bank management and they are not satisfied with the outcome.

The three-person Inspection Panel has powers to make a preliminary assessment of the merits of a complaint brought by a group, taking into account Bank management responses to the allegations. Subsequently, it can recommend to the Board that a full investigation be undertaken, and make recommendations on the basis of such a full investigation. The Executive Board retains the power to permit investigations to proceed, and to make final decisions based on the Panel's findings and Bank Management's recommendations. The Inspection Panel thus enhances the power of the Executive Board, as well as of a wide group of affected 'stakeholders' in the Bank's work.

At the same time, in a different part of the World Bank group, an alternative model of horizontal accountability has been created. In June 1999, the part of the World Bank which lends to the private sector - the International Finance Corporation (IFC) - and the Multilateral Investment Guarantee Agency (MIGA) created a Compliance Adviser/Ombudsman (CAO) after consultations with shareholders, NGOs and members of the business community. The aim was to find a workable and constructive approach to dealing with environmental and social concerns and complaints of people directly impacted by IFC and for MIGA financed projects. The CAO or ombudsman and her staff are independent of the Bank and IFC and report directly to the President of the World Bank. The emphasis of the office's work, however, is

very much dialogue, mediation and conciliation. The CAO has the power to make recommendations but no formal powers of enforcement. To quote the draft operational guidelines of the office: 'The ombudsman is not a judge, court or policeman'. Nevertheless, like the Inspection Panel, the establishment of the CAO represents a shift towards accountability (of the Bank's policies and implementation) to groups other than governments.

### *The WTO*

The WTO has recently begun to pay more attention to the issue of accountability, however, as both government members and the Secretariat of the organization admit, there are as yet very few mechanisms of evaluation, compliance and enforcement in place to compare with those of the IMF and World Bank.

In terms of transparency, the WTO website now carries all the documents which were submitted at each of the Ministerial Councils. Minutes are maintained of all formal and many informal meetings, and most documents are not restricted. The exceptions are documents on tariff renegotiations. Access to the Secretariat's integrated data base of Members' tariff schedules and other trade measures is restricted to participating governments (Hoekman and Kostecki, 2001). Panel findings and other major documents of various WTO bodies are published in a series entitled 'Basic Instruments and Selected Documents' (BISD). Summary reports are put online, though often after a few months to allow the translation of these reports into three languages (Robertson, 2000). Besides the publication of its documents with online availability, the WTO also publishes newsletters, studies such as 'Trading Into the Future', and various training packages. The purpose of such publications is to make the workings of the WTO clear for any interested parties. With respect to dispute settlement, reports of the panels and the Appellate Body are published online.

In spite of the existing transparency of the WTO, both developing countries and NGOs argue that the organization's procedures should be both more accessible and more transparent. The complaint here is that while many reports and minutes of meetings are published online, actual participation in meetings at all levels is crucial in order to understand the nature and depth of political negotiations and compromises which lie behind formal pronouncements. In other words, the formal publication of documents cannot substitute for participation in delivering transparency to members or stakeholders in the organization.

Developing countries highlight that most WTO decisions are taken in small group meetings and consultations and then presented as a *fait accompli* at the Council level. For example, 'Green room' consultations are usually convened at the initiative of the Director General and include the powerful Quad (United States, European Union, Japan and Canada) as well as countries deemed to have a vital interest in the issue under discussion and countries which have traditionally played a leading role in the GATT (such as Brazil and India representing

developing countries, and Bangladesh representing the least developed countries). Usually about twenty countries are included in any one Green room consultation. The problem for most developing countries is that they are excluded from these core yet informal decision-making processes. Furthermore, even if all meetings were open to them, most developing countries do not have the personnel and resources to cover the plethora of meetings and issues going on at any one time. The rapid expansion of the WTO's agenda is exacerbating this problem. It has been estimated that there are about 1200 formal and informal WTO meetings taking place through the year (Hoekman and Kostecki, 2001). This widening agenda is placing the tremendous pressure on the limited resources of developing countries, making it virtually impossible for them to keep abreast of what is going on, let alone to contribute knowledgeably and authoritatively to the processes.

Some attempt has been made further to open up the green room and informal processes of negotiations and consensus building within the WTO. Notifications of small group meetings are posted on bulletin boards, participation in these meetings is by invitation as well as self-selection, minutes of at least some informal meetings are published. However, two problems remain. First, for many of the new issues, developing countries have often not even got to the point of identifying their interest, and hence find it difficult to claim participation on the basis of vital interest even if they have a potential interest in the area. Second, even if an effort is made not to present Green Room decisions as a *fait accompli*, these decisions are presented at the Council level only at a fairly final stage of the discussion. It is not easy for developing countries to intervene effectively in this final stage, when they have not participated in the initial discussions and lack a detailed understanding of the issues involved. This problem is particularly significant for the poorest developing countries who find it difficult to independently keep abreast with the multi-sector, highly specific and technical issues under negotiation. Here they differ from the larger developing countries and developed countries, for which independent research on at least some of these issues is possible and they are not completely dependent on learning from group discussions.

For member states wanting to engage and contribute in the policy-making and negotiations of the WTO, adequate transparency cannot be achieved through formal minutes and reports because consensus is formed within the organization primarily through informal meetings and consultations. Transparency for members requires either presence at all levels of negotiations, or deep and detailed briefings (as opposed to formal minutes). To some degree this need 'to be there' was recognized in respect of a different set of stakeholders in the organization when NGOs were accredited for the Seattle Ministerial: albeit with participation restricted to attending the plenary sessions and the one-day symposium to facilitate a debate between government representatives and NGOs. Many NGOs are now demanding observer status (if not actual decision-making powers), akin to that enjoyed by some international organisations and states seeking accession into the WTO. We will return to this issue in section four below.

Beyond transparency, evaluation, monitoring, and compliance are the (progressively) harder edges of accountability for public institutions. In respect of the work of the staff and Secretariat of the WTO there is, as yet, very little internal or external evaluation or monitoring. One might point to the very limited monitoring undertaken by the budget committee (made up of some national delegates) or indeed, the recently installed internal auditor monitoring work in the area of technical cooperation. However, there is as yet no equivalent to the ongoing evaluation activities which exist in the IMF and World Bank.

A different level of accountability in the WTO is that of member states' compliance and actions in respect of commitments undertaken under WTO auspices. In addition to agreements requiring members to be transparent in their trade regulations, the WTO itself has two mechanisms of accountability in respect of members: the Trade Policy Review Mechanism (TPRM) and the Dispute-Settlement process.

The TPRM has three goals – a) to increase the transparency and understanding of countries' trade policies and practices, through regular monitoring b) to improve the quality of public and intergovernmental debate on the issues c) to enable a multilateral assessment of the effects of policies on the world trading system. The WTO undertakes country-specific reviews alongside members themselves so as to enable other members to understand the reviewed country's policies and circumstances, and also provide a feedback to the reviewed country on its own trade performance. Each review comprises two documents – one prepared by the government concerned, and the other prepared by the WTO Trade Policies Review division. Press releases, summaries of both sets of documents in the reviews and the Chairperson's conclusions are posted on the WTO web-site. The reviews are conducted on a rotational basis. Countries with the largest trade shares are subject to the most frequent reviews, e.g., the Quad are reviewed every two years, while the LDCs enjoy much longer time periods (sometimes over six years) between each review.

The TPRM is taken very seriously, as indicated by the composition of the Trade Policy Review Body, which is the General Council in disguise. It is noteworthy however, that the purpose of the TPRM is only to enhance transparency and understanding of country-specific trade measures. The legal compatibility of these trade measures with WTO disciplines is not examined, and can only be undertaken by individual member states and followed up in the Dispute Settlement Body. Hence, as far as the actual enforcement of WTO disciplines goes, the initiative falls on individual members who must go through the Dispute Settlement Mechanism.

The enforcement of WTO rules can only be undertaken by member states (not the Secretariat or staff of the WTO) who must pursue any grievance through the dispute settlement process. All final rulings are made by the Dispute Settlement Body, which is the General Council in another guise. Hence, in the final analysis, the dispute settlement process is political and decisions can be overturned by the DSB (although as consensus is required to negate the

findings of the panels, it is not easy to over-rule the legal process). The onus of enforcing the decisions of the panels also falls on the members. If a defendant does not comply with the rulings of the panels, the complainant can be authorised to seek compensation or retaliation, but the WTO as a collectivity of members or the Secretariat cannot enforce the rulings directly.

The dispute settlement proceedings are not open. First draft and interim reports of the panels are submitted only to the two sides. The final report of the panel is first submitted to both sides, and three weeks later, is circulated among all the members. The Procedures for the Circulation and Derestriction of WTO Documents state in the context of reports of dispute panels that 'Such reports shall be circulated to all Members as restricted documents and derestricted no later than the 10<sup>th</sup> day thereafter if, prior to the date of circulation a party to the dispute that forms the basis of a report submits to the Chairman of the DSB a written request for delayed derestriction. A report circulated as a restricted document shall indicate the date upon which it will be derestricted' (WTO, 1996b). The report becomes a ruling of the DSB within 60 days, unless it is rejected by consensus. Appeals should not usually last more than 60 days, and 90 days as a maximum. Reports of the Appellate Body must also go to the DSB to become a ruling within 30 days or rejected by consensus. The DSB monitors the implementation of rulings.

### *Lessons from the existing accountability of the institutions*

The accountability of the WTO highlights three aspects of accountability we have examined in this section.

Transparency has been greatly improved in all three international economic organizations. However, transparency as a mechanism of accountability for members requires more than the publication of decision, minutes, and documents. Real accountability for members requires active participation. All three organizations are characterized by informal processes of consultation and consensus-building. As a result, a member wishing to hold other members to account needs to be privy to much which is not recorded and circulated as a publication. The kind of participation required for accountability needs strengthening in all three institutions.

In terms of the monitoring of staff performance and institutional effectiveness, the World Bank has the strongest mechanisms in place with its ongoing independent unit of evaluation. Furthermore the Bank has formal mechanisms for compliance enforcement of its own rules and procedures in the Inspection Panel and Ombudsman/CAO. The IMF is working to strengthen its evaluation mechanisms but has as yet no equivalent compliance mechanism. The WTO has little by way of staff evaluation. It monitors its members through the trade policy review mechanism and disputes procedure. However, in both instances we have signalled weaknesses due to inadequate participation, transparency and capacity for enforcement.

Overall, all three of the international economic institutions are now working in a world political system in which groups both within and across countries are demanding more account of their work. More accountability is being demanded both through governments and directly from the organizations concerned. It is for this reason all three institutions have begun to strengthen their horizontal accountability. One result of this is to give more scope for non-governmental actors to play a role as agencies of either influence or restraint in the work of the institutions.

#### **4. Can gaps in accountability be remedied by greater openness to new stakeholders?**

While the WTO, IMF and World Bank have always had significant (even if not formal) relations with private sector actors, in recent years, all three organizations have also greatly increased their relationship with non-governmental organizations (NGOs). This shift has reflected two new kinds of argument as to why inter-state and multilateral institutions should be accountable to non-state actors.

In the first place, the institutions now face grassroots NGOs claiming to represent people whose lives and livelihoods are being directly affected by the actions and policies of the IMF, the World Bank and the WTO. The argument here is that representation in the international institutions is imperfect. The emissaries of existing governments fail to represent many groups' rights or predicament. NGOs acting in international fora are necessary to fill the gap in representation and accountability that results.

A second kind of claim is that the actions or policies of international economic organizations affect principles, values, future generations and other factors which are not adequately expressed or debated in the international system. Global environmental protection serves as one example. NGOs argue that they can debate and address these issues within domestic politics, however, the new intrusiveness of international organizations means that even if NGOs succeed at the local level, the policies of international institutions might then override their victory (as discussed in the WTO disputes above). For this reason transnational NGOs argue that they should be given a voice within the international institutions and that the organizations should be accountable to them.

The international economic organizations have responded to these claims in a variety of ways, including the new steps towards horizontal accountability outlined above. At the same time, in each institution robust arguments have been made for keeping NGOs out. The core traditional argument is that all member states are already represented in the governing boards or council of the organizations. The appropriate place for NGOs lies in domestic political debate. To open any international institution up to special interest pleading would erode the legitimacy and inter-state structure of the organizations. Curiously, the same arguments could (and perhaps should) be voiced in respect of private sector actors, yet they are not.

In the WTO (and in its predecessor the GATT), the private sector has always played a direct

and important role in trade negotiations. For example, the US Coalition of Services Industries and British Invisibles played a key role in negotiations on the General Agreement on Trade in Services (GATS), just as the Financial Leaders Group (FLG) set up by financial firms in the US and the EU has played a significant role in the conclusion of the Financial Services Agreement (Dobson and Jacquet, 1999). Furthermore, country delegations can (and often do) include private sector actors with specific technical expertise such as we have seen in negotiations on telecommunications. NGOs enjoy no such role (WTO, 1996a). At the formal level the institution now accredits NGOs for Ministerial Conferences. Any NGO wanting accreditation must demonstrate that its activities and areas of interest relate to those of the WTO. For the Seattle Ministerial Conference in 1999, some 738 NGOs were accredited.

The scope for NGO activity in the IMF and World Bank is somewhat broader. The World Bank's NGO-World Bank Committee (established in 1982) has become more active in recent years and both the Bank and Fund now consult with lobbying organisations in Washington DC, with grassroots organisations in member countries, trade unions, church groups, and such like. These contacts are taking place at regional, country, and local levels. World Bank regional directors and IMF resident representatives are being told to seek out and maintain such contacts. At the annual and spring meetings both institutions have been actively involved in more dialogue and meetings with a select group of transnational NGOs. In addition to these measures which increase transparency and consultation, the institutions have also moved more recently to permitting some level of local participation by non-state actors, such as in the poverty reduction strategy papers (PRSP) mentioned above which are being required of countries seeking enhanced debt relief. Finally, complaints procedures such as the Inspection Panel and the CAO within the World Bank Group are the most forceful recognition of international accountability to non-state actors - aimed principally at enhancing accountability to locally affected groups and stakeholders.

There are two sets of problems of accountability which emerge with the new relationship between the international economic organization and NGOs. These problems relate to whom the NGOs represent and to whom they are accountable. Let us examine the issues in the first place looking at the new relations of international institutions with local or Southern NGOs at the grassroots level.

Local or Southern NGOs are stakeholders in a direct sense of the term: they represent groups directly affected by the new more intrusive programs and policies of the international economic organizations. Indeed the agencies themselves recognize that, to quote the World Bank, 'policy reform and institutional development cannot be imported or imposed' (World Bank, 1999). Put another way, for international institutions to fulfil their new broad agendas they need to win the hearts and minds of people, not just persuade governments to sign agreements.

The resulting new relations being developed with Southern NGOs, naturally introduce new

problems of accountability such as: to whom are local NGOs accountable and how? Furthermore, with which NGOs should international organizations work, and with what implications for local politics and accountability? Ideally, the actions of international economic institutions should work through and reinforce local mechanisms of accountability. However, local accountability may or may not be improved by using NGOs. There are some instances where using NGOs bypasses government institutions and in so doing risks thwarting 'institution building', 'state modernization', and indeed, even democratization itself, particularly in fragile democratizing states (Woods, 2001).

Nonetheless, the vociferous debate about NGOs and their lack of accountability risks being overplayed in the context of Southern NGOs. Certainly they now have access to more information: and transparency is a powerful step towards holding governments and institutions accountable. NGOs are also, with government approval, consulted more regularly. In the World Bank and IFC/MIGA they have the right (although not necessarily the resources) to access the new complaints procedures. These steps, however, do not amount to a transfer of decision-making power or substantial influence. Indeed, the argument has been made that Southern NGOs should be strengthened and more strongly used by developing-country governments in order: (1) to enhance their own information and analysis about the IFIs; (2) as a bargaining counter (in alliance with Northern NGOs) to pressures by major shareholders, who face demands from their own publics to pay attention to NGOs; (3) to counter the power of Northern NGOs (Abugre and Alexander, 1998).

A slightly different set of problems are raised by the recognition of transnational and Northern NGOs in the international economic organizations. If we ask to whom are these groups accountable, we must assess their relations with: their membership (actual and potential and predominantly Northern); their major funders and/or clients (which may include governments and corporations); and their NGO or 'local' partners (some of which may be in developing countries). Most Northern-based NGOs are primarily (and formally) accountable to their membership and funders. For this reason, a long-standing concern about these NGOs is that their activities further magnify the voice and influence of industrialized countries' peoples and governments in international debates and institutions which already disproportionately represent the industrialized world. The fact that of the 738 NGOs accredited to the Ministerial Conference of the WTO in Seattle some 87% were based in industrialized countries gives some substance to this concern.

The difficulty for critics is that whilst the work of many NGOs has undoubtedly magnified the influence of already-powerful constituencies, they have also used their influence with the US government (both Congress and the Executive) and other G-7 governments, effectively to campaign for greater transparency, disclosure and new forms of horizontal accountability, which are of interest to all stakeholders.

In summary, it is worth reiterating, that NGOs, whether Northern or Southern, have not acquired control, nor a formal participatory role in decision-making in any international organization except at the behest of their own governments. They have sought and succeeded in ensuring more transparency for all stakeholders. They have also gained a place in some processes of consultation. They are not yet participants in decision-making, nor do they control outcomes in the work of the international economic organizations. That said, however, the entry of NGOs into even occasional processes of consultation has generated criticism from a number of countries who themselves enjoy only the most limited influence into the work of the institutions. The fear here is that NGOs, often based in powerful industrialized countries, will exhaust the little time key policy-makers within the international economic institutions have for consultations, yet further closing-out the opportunities for smaller developing countries to have input.

## **Conclusions**

In recent years the international economic institutions have undertaken a number of steps to bolster their accountability. Nevertheless many gaps remain. In large part this is due to the rapid expansion of the functions of the institutions. Global economic governance now reaches deeply into states directly affecting specific groups of stakeholders who are inadequately represented in inter-state institutions and to whom the institutions are insufficiently accountable. The existing international economic agencies are not structured to represent or to be accountable to these new stakeholders. Rather, the IMF, World Bank, and WTO reflect a more old-fashioned conception of technical inter-state cooperation.

At the same time, the IMF, the World Bank, and the WTO cannot escape demands to be more accountable. At each of their international meetings, members and officials of the institutions are greeted by protesters and demonstrators who claim that the organizations are undemocratic, and unaccountable to those they affect: even as the institutions themselves are making efforts to become more accountable. In part, this is because the work of the institutions has expanded yet faster than their efforts to be (and be seen as) more accountable. At the same time, however, there may well be a gap emerging between legitimacy and accountability in international economic governance.

The legitimacy of the international economic institutions is based on more than their accountability. Legitimacy reflects perceptions of representativeness, fairness and equity. Some overlap clearly exists, as we have seen in the interplay between transparency, participation and accountability. However, legitimacy embodies a deeper set of values and judgements than those of accountability. Indeed, some political scientists argue that there is a tradeoff between these concepts. On one model, enhancing the accountability of a public agency can be a way of making up for deficits in representativeness, or increasing the independence of the agency (Ferejohn, 1999). A tradeoff between accountability, representation and participation,

however, is unlikely to placate those who argue that the Fund, the Bank and the WTO are too distant and too far from the reach, concerns, and debates of voters and citizens within their member countries. In this debate, formal accountability is but one element of legitimacy, and not a substitute for the stronger demands for closer representation and participation.

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## **Endnotes**

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